IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.2006 OF 2007
IN
APPEAL NO.251 OF 2007
IN
CHAMBER SUMMONS NO.254 OF 2007
IN
SUIT NO.2703 OF 2006

Veena Sikand & Anr. .. Appellants
V/s
Rukmani Bherumal Wadhwani & Anr. .. Respondents

Mr.Bulchandani i/by M/s.Kukreja & Co.for the Appellants.
Mr.J.P.Sen i/by M/s.Ashok G.Purohit for Respondent No.1.

CORAM : DR.S.RADHAKRISHNAN, &
ANOOP V.MOHTA, JJ.

DATE : 20th December, 2007.

P.C.:

1. Heard the learned Counsel for the parties. Perused the order passed by this Court dated 5th July, 2007 in the Appeal No.251/2007. As recorded in the said order dated 5th July, 2007 the Appellants had agreed and undertaken to vacate & remove themselves from the suit flat on or before 31st December, 2007. Further the Appellants had also agreed that they will not seek any extension of time as stipulated in the aforesaid order dated 5th July, 2007 on any ground whatsoever.

2. It may be noted here that by the learned Single Judge’s order the Appellants were directed to vacate the suit flat on 31st March, 2007. However, when the appeal was moved, the Appellate Court, having regard to the facts and circumstances of the case, granted time upto

31st December, 2007 to vacate the suit flat.

2. The affidavit in support of the Chamber Summons indicates that the Appellant's son has acquired new flat premises at Pali Hill, Bandra (W), Mumbai costing Rs.1.92 crores. As per the said affidavit the agreement for the newly acquired flat was entered into on 5th May, 2007 and the possession was also taken on the very same day. Mr.Bulchandani, the learned Counsel has submitted that the newly acquired flat was found in inhabitable condition in the sense the bathroom tiles and the bed-room tiles were broken and the doors inside the flat and the main door had to be changed. Mr.Bulchandani has submitted that the renovacation of newly acquired flat will take time, and therefore the Appellants be permitted to stay in the suit premises, and accordingly the time to vacate the suit premises be extended. It is fairly stated by Mr.Bulchandani that right from 5th May, 2007 till date the newly acquired flat has been in possession of the Appellant's son. It appears that in July, 2007 there was a threat of auction with regard to the aforesid newly acquired flat and finally the Debt Recovery Tribunal had clarified that the Appellant's son had a right over the said premises. Even during the DRT proceedings the possession of the newly acquired flat continued with the Appellant's son. As per the order passed by this Court there is still 10 days' time with the Appellants to vacate the suit premises, and within

this period of 10 days the Appellants can carry out the work of repairs, replacement of tiles and changing of doors etc.in the newly acquired flat, and therefore, the time already granted to the Appellants to vacate the suit premises cannot be further extended. We do not find this Chamber Summons to be bonafide. Chamber Summons stands dismissed.

(ANOOP V.MOHTA, J.) **(DR.S.RADHAKRISHNAN, J.)**